

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

Clean Harbors Florida LLC
7001 Kilo Avenue
Bartow, Florida 33830
EPA ID No.: FLD 980 729 610

Respondent

) DOCKET NO.: RCRA-04-2016-4007(b)

)
)
) Proceeding Under Section 3008(a) of the
) Resource Conservation and Recovery Act
) 42 U.S.C. § 6928(a)
)
)
)

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CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. §§ 6921-6939f], and the regulations promulgated pursuant thereto and set forth at Fla. Admin. Code Ann. r. 62-730 *et seq.* [Title 40 of the Code of Federal Regulations (C.F.R.), Parts 260 through 270, 273, & 279]. This action seeks the imposition of civil penalties pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), for violations of Fla. Admin. Code Ann. r. 62-730 *et seq.* [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4. Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.

5. Respondent is Clean Harbors Florida LLC, a Foreign Limited Liability Company, organized under the laws of Delaware. Respondent is the owner and operator of a hazardous waste management company located at 7001 Kilo Avenue, Bartow, Florida (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Fla. Stat. § 403.702 *et seq.* and Fla. Admin. Code Ann. r. 62-730 *et seq.*
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Florida has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin. Code Ann. r. 62-730.180(2) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.
14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a "hazardous waste" if it meets any of the criteria set forth in Fla. Admin. Code Ann. r.

62- 30.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].

15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62- 730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D0043.

Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.21], a solid waste that exhibits the characteristic of ignitability is a hazardous waste and is identified with the EPA Hazardous Waste Number D001.

Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.20 and 261.24], a solid waste that exhibits the characteristic of toxicity is a hazardous waste and is identified with the EPA Hazardous Waste Number associated with the toxic contaminant causing it to be hazardous. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.24], a solid waste that exhibits the characteristic of toxicity for arsenic, barium, cadmium, chromium and lead are identified with the EPA Hazardous Waste Numbers D004, D005, D006, D007 and D008, respectively.

16. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
21. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “manifest” means the shipping document EPA Form 8700-22 (including, if necessary, EPA Form 8700-22A), or the electronic manifest, originated and signed in accordance with the applicable requirements of parts 262 through 265 of this chapter.
22. Permit/Certification Number 64247-HO-011 was issued to Clean Harbors Florida LLC under the provisions of Section 403.722, Florida Statutes and Chapters 62-4, 62-160, 62-730, 62-777 and 62-780, Florida Administrative Code. Part II Condition 5 of the permit requires the facility to comply with the manifest requirements of 40 C.F.R. § 264.71.

23. Pursuant to Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.71(a)(1)], if a facility receives hazardous waste accompanied by a manifest, the owner, operator or his/her agent must sign and date the manifest as indicated in paragraph (a)(2) of this section to certify that the hazardous waste covered by the manifest was received by the facility.

IV. EPA ALLEGATIONS AND DETERMINATIONS

24. Respondent is a "person" as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
25. Respondent is the "owner/operator" of a "facility" located at 7001 Kilo Avenue, Bartow, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
26. Respondent is a "generator" of "hazardous waste" as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3].
27. Respondent is a provider of environmental, energy and industrial services, including hazardous waste disposal for companies.
28. Respondent's facility has a permit (Permit/Certification Number 64247-HO-011) to receive and store hazardous wastes from an off-site facility. The permit was re-issued on April 20, 2012, and expires on December 10, 2016.
29. On December 8, 2015, the EPA and FDEP conducted a compliance evaluation inspection (CEI) at Respondent's facility. The findings of the CEI were documented in a Report mailed to Respondent, dated March 7, 2016.
30. During the December 8, 2015, RCRA CEI, FDEP and EPA found that the Respondent was using a separate facility, owned by a separate owner/operator with a separate EPA ID number, to receive and ship hazardous waste via railcar, as the Respondent doesn't have access to a rail spur at the facility. The Respondent only receives and ships hazardous waste via tractor trailer.
31. During the December 8, 2015, RCRA CEI, FDEP and EPA found that the Respondent had signed a hazardous waste manifest (Manifest Number 007621320) as the storage facility permitted to receive the hazardous waste without having possession of the railcar of hazardous waste specified on the manifest. Manifest Number 007621320 was for the shipment of 4,155 lbs. of hazardous waste via railcar with the following waste codes: D001, D004, D005, D006, D007 and D008.
32. On April 4, 2016, the EPA held a show cause meeting with the Respondent. At the time of the show cause meeting, Respondent stated that a facility representative had signed Manifest Number 007621320 without having possession of the hazardous waste specified on the manifest.

33. The EPA therefore alleges Respondent violated Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.71], which is a requirement of Part II Condition 5 of Permit/Certification Number 64247-HO-011, by failing to accurately certify that the hazardous waste covered by the manifest was received by the facility.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

34. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
35. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
36. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
37. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
38. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
39. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
40. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
41. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
42. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.
43. Each party will pay its own costs and attorneys' fees.

VI. PAYMENT OF CIVIL PENALTY

44. Respondent consents to the payment of a civil penalty in the amount of FIFTEEN THOUSAND DOLLARS (\$15,000.00), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.

45. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read:
"D 68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility:
5700 Rivertech Court
Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

46. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Daryl R. Himes, Environmental Engineer
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
RCR Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

47. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 - c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. This non-payment is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).
48. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VII. PARTIES BOUND

49. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent

contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.

50. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
51. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

VIII. RESERVATION OF RIGHTS

52. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
53. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
54. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

IX. OTHER APPLICABLE LAWS

55. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

X. SERVICE OF DOCUMENTS

56. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents EPA in this matter and who is authorized to receive service for EPA in this proceeding:

Joan Redleaf Durbin
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9544

57. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Clean Harbors Florida, LLC
42 Longwater Drive
Norwell, MA 02061
Attn: Michael R. McDonald
– Assistant Secretary

XI. SEVERABILITY

58. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.


XII. EFFECTIVE DATE

59. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Clean Harbors Florida LLC, Docket No. RCRA-04-2016-4007(b):


AGREED AND CONSENTED TO:

Clean Harbors Florida LLC

By: 
William F. Connors
Senior Vice President - Compliance

Dated: 6/23/16

United States Environmental Protection Agency

By: 
~~William E. Truman, Acting Chief~~
Enforcement and Compliance Branch
Resource Conservation and Restoration
Division
U.S. EPA Region 4

Dated: 06/27/16

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

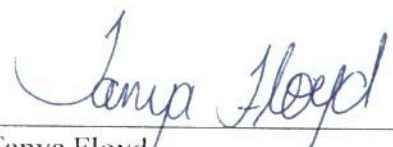
IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2016-4007(b)
)	
Clean Harbors Florida LLC)	
7001 Kilo Avenue)	Proceeding Under Section 3008(a) of the
Bartow, Florida 33830)	Resource Conservation and Recovery Act,
EPA ID No.: FLD 980 729 610)	42 U.S.C. § 6928(a)
)	
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 5th day of July, 2016.

BY:



Tanya Floyd
Regional Judicial Officer
EPA Region 4

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Clean Harbors Florida LLC, Docket Number: RCRA-04-2016-4007(b), and have served the parties listed below in the manner indicated:

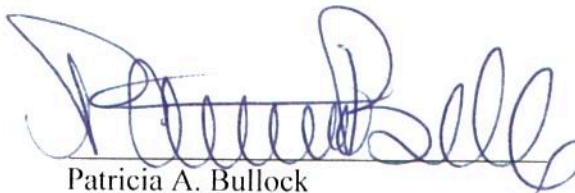
Joan Redleaf Durbin
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(Via EPA's electronic mail)

Quantindra Smith
Enforcement and Compliance Branch
RCR Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(Via EPA's electronic mail)

Clean Harbors Florida, LLC
42 Longwater Drive
Norwell, MA 02061
Attn: Michael R. McDonald – Assistant Secretary
(Via Certified Mail - Return Receipt Requested)

Date:

10-5-16



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

JUL 05 2016

Timmery Fitzpatrick
Senior Environmental Attorney
Clean Harbors
P.O. Box 9149
42 Longwater Drive
Norwell, MA 02061-9149

Re: Clean Harbors Florida LLC, EPA ID# FL980 729 610
Consent Agreement and Final Order, Docket No. RCRA-04-2016-4007(b)

Dear Ms. Fitzpatrick,

Enclosed please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at 404-562-8590 or by email at lamberth.larry@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry L. Lamberth", is positioned above the typed name.

Larry L. Lamberth, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure



August 9, 2016

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

Re: Clean Harbors Florida LLC, EPA ID# FL980 729 610
Consent Agreement and Final Order, Docket No. RCRA-04-2016-4007(b)

To Whom It May Concern,

Enclosed please find payment of a civil penalty in the amount of fifteen thousand dollars (\$15,000) in regards to the above mentioned matter.

Should you have any questions or require additional information, please do not hesitate to contact me at 781-792-5172.

Sincerely,

A handwritten signature in black ink, appearing to read 'Timmery Fitzpatrick'.

Timmery Fitzpatrick
Senior Environmental Attorney

cc: Regional Hearing Clerk, U.S. EPA Region 4
Daryl R. Himes, Environmental Engineer

Check Date: 05.Aug.2016

Vendor Number: 0000062069

Check No. 1650736

Invoice Number	Invoice Date	Voucher ID	Gross Amount	Discount Taken	Paid Amount
6206907272016	27.Jul.2016	00010134	\$15,000.00	\$0.00	\$15,000.00
TO RECEIVE PAYMENTS BY ACH, EMAIL: ACHpaymentrequests@cleanharbors.com					
Check Number	Date	Total Gross Amount	Total Discounts	Total Paid Amount	
1650736	05.Aug.2016	\$15,000.00	\$0.00	\$15,000.00	

THE BACK OF THIS CHECK CONTAINS A SECURITY MARK® - DO NOT ACCEPT WITHOUT HOLDING AT AN ANGLE TO VERIFY SECURITY MARK®

CleanHarbors
 ENVIRONMENTAL SERVICES®

Bank of America

51-44/119

Date 05.Aug.2016

1650736

 42 Longwater Drive
 Norwell, MA 02061-9149

Pay ****FIFTEEN THOUSAND AND XX / 100 DOLLAR****

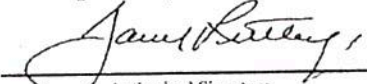
Pay Amount \$15,000.00***

Non-Negotiable after 180 Days

 To The
 Order Of

 TREASURER OF THE UNITED STATES
 PO BOX 979077
 ST LOUIS, MO 63197-9000

Co-Signature Required over \$250,000.00


 Authorized Signature

⑈ 1650736 ⑈ ⑆011900445⑆

68490⑈

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:

Clean Harbors Florida LLC
7001 Kilo Avenue
Bartow, Florida 33830

EPA ID No.: FLD 980 729 610

Respondent

DOCKET NO.: RCRA-04-2018-4012(b)

Proceeding Under Section 3008(a) of the
Resource Conservation and Recovery Act,
42 U.S.C. § 6928(a)

CONSENT AGREEMENT

I. NATURE OF THE ACTION

1. This is a civil administrative enforcement action, pursuant to Section 3008(a) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6928(a), ordering compliance with the requirements of Chapter 403 of the Florida Statutes (Fla. Stat.), Fla. Stat. § 403.702 *et seq.* [Subtitle C of RCRA, 42 U.S.C. § 6921 *et seq.*], and the regulations promulgated pursuant thereto and set forth at Florida Administrative Code Annotated Rule (Fla. Admin. Code Ann. r.) 62-730 *et seq.* [Title 40 of the Code of Federal Regulations (40 C.F.R.), Parts 260 through 270]. This action seeks injunctive relief and the imposition of civil penalties pursuant to Section 3008(a) of RCRA, for violations of Fla. Admin. Code Ann. r. 62-730 *et seq.* [40 C.F.R. Parts 260 through 270].
2. The *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, which govern this action and are promulgated at 40 C.F.R. Part 22, provide that where the parties agree to settlement of one or more causes of action before the filing of a complaint, a proceeding may be simultaneously commenced and concluded by the issuance of a Consent Agreement and Final Order (CA/FO). 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3).
3. Complainant and Respondent have conferred for the purpose of settlement pursuant to 40 C.F.R. § 22.18 and desire to settle this action. Accordingly, before any testimony has been taken upon the pleadings and without any admission of violation or adjudication of any issue of fact or law and in accordance with 40 C.F.R. § 22.13(b), Complainant and Respondent have agreed to the execution of this CA/FO, and Respondent hereby agrees to comply with the terms of this CA/FO.

II. THE PARTIES

4. Complainant is the Chief, Enforcement and Compliance Branch, Resource Conservation and Restoration Division, United States Environmental Protection Agency (EPA) Region 4.

Complainant is authorized to issue the instant CA/FO pursuant to Section 3008(a) of RCRA, 42 U.S.C. § 6928(a), and applicable delegations of authority.

5. Respondent is Clean Harbors Florida LLC, a Foreign Limited Liability Company, organized under the laws of Delaware. Respondent is the owner and operator of a hazardous waste management facility located at 7001 Kilo Avenue, Bartow, Florida (the Facility).

III. PRELIMINARY STATEMENTS

6. Pursuant to Section 3006(b) of RCRA, 42 U.S.C. § 6926(b), the State of Florida (State) has received final authorization to carry out a hazardous waste program in lieu of the federal program set forth in RCRA. The requirements of the authorized State program are found at Fla. Stat. § 403.702 *et seq.* and Fla. Admin. Code Ann. r. 62-730 *et seq.*
7. Pursuant to Section 3006(g) of RCRA, 42 U.S.C. § 6926(g), the requirements established by the Hazardous and Solid Waste Amendments of 1984 (HSWA), Pub. L. 98-616, are immediately effective in all states regardless of their authorization status and are implemented by the EPA until a state is granted final authorization with respect to those requirements. Florida has received final authorization for certain portions of HSWA, including those recited herein.
8. Although the EPA has granted the State authority to enforce its own hazardous waste program, the EPA retains jurisdiction and authority to initiate an independent enforcement action pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2). This authority is exercised by the EPA in the manner set forth in the Memorandum of Agreement between the EPA and the State.
9. As the State's authorized hazardous waste program operates in lieu of the federal RCRA program, the citations for the violations of those authorized provisions alleged herein will be to the authorized State program; however, for ease of reference, the 2016 federal citations will follow in brackets.
10. Pursuant to Section 3008(a)(2) of RCRA, 42 U.S.C. § 6928(a)(2), Complainant has given notice of this action to the State before issuance of this CA/FO.
11. Section 403.721 of the Florida Statutes, Fla. Stat. § 403.721 [Section 3002(a) of RCRA, 42 U.S.C. § 6922(a)], requires the promulgation of standards applicable to generators of hazardous waste. The implementing regulations for these standards are found at Fla. Admin. Code Ann. r. 62-730.160 [40 C.F.R. Part 262].
12. Section 403.722 of the Florida Statutes, Fla. Stat. § 403.722 [Section 3005 of RCRA, 42 U.S.C. § 6925], sets forth the requirement that a facility treating, storing, or disposing of hazardous waste must have a permit or interim status. The implementing regulations for this requirement are found at Fla. Admin. Code Ann. r. 62-730.180(1) (permitted) and Fla. Admin. Code Ann. r. 62-730.180(2) (interim status) [40 C.F.R. Parts 264 (permitted) and 265 (interim status)].
13. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.2], a "solid waste" is any discarded material that is not otherwise excluded from the regulations. A discarded material includes any material that is abandoned by being stored in lieu of being disposed.

14. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3], a solid waste is a “hazardous waste” if it meets any of the criteria set forth in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3(a)(2)] and is not otherwise excluded from regulation as a hazardous waste by Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.4(b)].
15. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(i) and 261.20], solid wastes that exhibit any of the characteristics identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.21-24] are characteristic hazardous waste and are provided with the EPA Hazardous Waste Numbers D001 through D043.
16. Pursuant to Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. §§ 261.3(a)(2)(ii) and 261.30], a solid waste is a listed hazardous waste if it is listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261, Subpart D]. Listed hazardous wastes include F listed wastes from nonspecific sources identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3 I (a)] with EPA Hazardous Waste Numbers F001 through F039, and P- and U-listed wastes from off-spec commercial chemical products, container residues, and spill residues identified in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.33].
17. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “generator” is defined as any person, by site, whose act or process produces hazardous waste identified or listed in Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. Part 261], or whose act first causes a hazardous waste to become subject to regulation.
18. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “facility” includes “all contiguous land, and structures, other appurtenances, and improvements on the land, used for treating, storing, or disposing of hazardous waste.”
19. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], a “person” includes a corporation.
20. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], an “owner” is “the person who owns a facility or part of a facility” and an “operator” is “the person responsible for the overall operation of a facility.”
21. Pursuant to Fla. Stat. § 403.722 and Fla. Admin. Code Ann. r. 62-730.220(1) [RCRA § 3005 and 40 C.F.R. § 270.30], the owner and operator of a facility that treats, stores or disposes of hazardous wastes must obtain a RCRA permit and comply with all conditions of the RCRA permit.
22. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “storage” means the holding of a hazardous waste for a temporary period, at the end of which the hazardous waste is treated, disposed of, or stored elsewhere.
23. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “tank” means a stationary device, designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials (e.g., wood, concrete, steel, plastic) which provide structural support.

24. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “tank system” means a hazardous waste storage or treatment tank and its associated ancillary equipment and containment system.
25. Pursuant to Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10], “container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled.
26. On November 4, 2011, Respondent submitted an application to the State for the operation of a hazardous waste storage and treatment facility. On October 5, 2016, the State issued Permit Number 64247-HO-016 (“Respondent’s Permit”) to Respondent. Respondent’s Permit expires December 10, 2021. Respondent notified the State that it manages hazardous wastes identified with the following EPA Hazardous Waste Codes: all D codes; all F-listed waste codes except 29, 30, 31, 33 and 36; all K-listed waste codes except 12, 53-59, 63-68, 70, 71, 74 - 82, 89-92, 119-122, 127-130, 133-135, 137-140, 146, 152-155, 160, 162-168, 173, 179 and 180; all P-listed waste codes except 19, 25, 32, 35, 61, 79, 80, 83, 86, 90, 91, 100, 107, 117, 124, 125, 126, 129-184, 186, 187, 193, 195 and 200; and all U-listed waste codes except 13, 40, 54, 65, 100, 104, 139, 198, 199, 224, 229-233, 241, 242, 245, 250-267, 272-277, 281-327, 329-352, 354-358, 360-363, 365, 366, 368-371, 374-386, 388, 390-393, 396-403 and 405-408.
27. Pursuant to Part I, Condition 26 of Respondent’s Permit, Respondent is required to maintain, at a minimum, aisle space to allow the unobstructed movement of personnel, fire protection, and emergency response equipment to any area of the Facility.
28. Pursuant to Part II, Condition 1 of Respondent’s Permit, Respondent is required to comply with those sections of 40 C.F.R. Part 124 specified in Subsection 62-730.200(3), F.A.C., 40 C.F.R. Parts 260 through 268, and 40 C.F.R. Part 270 as adopted in Chapter 62-730, F.A.C., until all hazardous waste permitting operations have ceased and the Facility has been closed and released from post-closure care requirements and all facility-wide corrective action requirements.
29. Pursuant to Part II, Condition 1 of Respondent’s Permit, Respondent is required to comply with, inter alia, Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1084(c)(4)(iii)], which requires owners and operators that detect a defect in its hazardous waste storage tanks’ pressure relief devices to repair the defect in accordance with the requirements of Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1084(k)]. Furthermore, pursuant to Part II, Subpart B – Specific Operating Conditions, sub-paragraph 2.k (Specific Operating Conditions for Tanks), of Respondent’s Permit, Respondent is required to “inspect all permitted storage tank systems (T-101 to T-110) in accordance with procedures stipulated in Inspection Procedures in Appendix II-F.6 of the November 2011 permit application.”
30. Pursuant to Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1084(k)(1)] an owner and operator that detects a defect in its hazardous waste storage tank pressure relief devices shall make first efforts at repair of the defect no later than five calendar days after detection. Likewise, Appendix II-F.6, in Section V, 5.0 (Air Emission Standards, Subpart CC; Inspection and Monitoring Requirements) of Respondent’s Permit, specifies that “[a] first attempt to repair will be made within five calendar days after a leak is detected.”

IV. EPA ALLEGATIONS AND DETERMINATIONS

31. Respondent is a “person” as defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
32. Respondent is the “owner/operator” of a “facility” located at 7001 Kilo Avenue, Bartow, Florida, as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10].
33. At its facility, Respondent stores “hazardous waste” in “containers” and “tanks” as those terms are defined in Fla. Admin. Code Ann. r. 62-730.020(1) [40 C.F.R. § 260.10] and Fla. Admin. Code Ann. r. 62-730.030(1) [40 C.F.R. § 261.3].
34. Respondent is a provider of environmental, energy and industrial services, including hazardous waste disposal for companies.
35. On March 22, 2017, the EPA and the Florida Department of Environmental Protection (FDEP) conducted a compliance evaluation inspection (CEI) at Respondent’s facility. The EPA’s findings of the CEI were documented in a report mailed to Respondent, dated August 3, 2017.
36. During the March 22, 2017, RCRA CEI, FDEP and EPA found that the aisle between two rows of containers used to store hazardous waste in Cell L of the North Building did not have adequate space as to allow the unobstructed movement of personnel, fire protection, and emergency response equipment.
37. The EPA therefore alleges that Respondent violated Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.35], which is a requirement of Part I, Condition 26.e of Respondent’s Permit, by failing to store hazardous waste containers with sufficient aisle space as to allow the unobstructed movement of personnel, fire protection, and emergency response equipment.
38. The review of Respondent’s organic air emission monitoring log for the hazardous waste tank system revealed the detection of leaks from the following pressure relief valves:

Pressure Relief Valve Location	Date	Reading (ppm)
TANK T-102	1/31/2017	504
TANK T-102	4/28/2016	1026
TANK T-102	6/30/2016	754
TANK T-105	6/30/2016	921
TANK T-105	7/29/2016	871
TANK T-110	9/29/2016	527
TANK T-103	11/29/2016	593
TANK T-105	6/30/2016	921

39. In an email dated July 7, 2017, Respondent indicated that its electronic leak detection and repair tracking system had been set-up for tank’s pressure relief valves to indicate an organic vapor leak at concentrations above 10,000 ppm. Therefore, no work orders were

issued at a reading of 500ppm.

40. As it stated in its July 7, 2017 email to the EPA, Respondent did not attempt to make first effort at repairs of the defects within the initial five calendar days after detection.
41. The EPA therefore alleges Respondent violated Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1084(k)(1), which is a requirement of Respondent's Permit, by failing to repair defective pressure relief devices on tank systems within five calendar days from initial leak detection.

V. TERMS OF AGREEMENT

Based on the foregoing Preliminary Statements, Allegations and Determinations, the parties agree to the following:

42. For the purposes of this CA/FO, Respondent admits the jurisdictional allegations set out in the above paragraphs pursuant to Section 3008 of RCRA, 42 U.S.C. § 6928.
43. Respondent neither admits nor denies the factual allegations and determinations set out in this CA/FO.
44. Respondent waives any right to contest the allegations and its right to appeal the proposed Final Order accompanying the Consent Agreement.
45. Respondent consents to the issuance of any specified compliance or corrective action order.
46. Respondent waives its right to challenge the validity of this CA/FO and the settlement of the matters addressed in this CA/FO based on any issue related to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*
47. Respondent waives any right it may have pursuant to 40 C.F.R. § 22.8 to be present during any discussions with, or to be served with and reply to, any memorandum or communication addressed to the EPA officials where the purpose of such discussion, memorandum, or communication is to persuade such official to accept and issue this CA/FO.
48. Respondent waives any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondent may have with respect to any issue of fact or law set forth in this CA/FO, including any right of judicial review under Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-706.
49. The parties agree that the settlement of this matter is in the public interest and that this CA/FO is consistent with the applicable requirements of RCRA.
50. Respondent, by signing this CA/FO, certifies that Respondent is currently in compliance with RCRA and the authorized State hazardous waste program.
51. The parties agree that compliance with the terms of this CA/FO shall resolve the violations alleged and the facts stipulated to in this CA/FO.

52. Each party will pay its own costs and attorneys' fees.
53. The terms, conditions, and compliance requirements of this Consent Agreement may not be modified or amended except upon the written agreement of both Parties, and approval of the Regional Judicial Officer.

VI. WORK TO BE PERFORMED

54. Within sixty (60) days after the effective date of this CA/FO, Respondent shall submit to the EPA and FDEP a facility-wide document that describes:
- (i) the Facility's CC Tanks Program, which must include the following information:
 - (a) applicability of RCRA subpart CC regulations to specific tanks at the Facility,
 - (b) each type of Air Emission Control(s) associated with each Covered Tank, including whether controls are Tank Level 1 Controls or Tank Level 2 Controls,
 - (c) if Tank Level 1 Controls are associated with a Covered Tank, provide the determination for the maximum organic vapor pressure of the hazardous waste in the tank performed in accordance with the requirements of Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1084(c)(1) or § 264.1085(c)(1)],
 - (d) if applicable, for each tank not using Air Emission Controls specified in Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1084] in accordance with the provisions of Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1080(b)(7)] provide the information required pursuant to Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1089(j)];
 - (ii) the Facility's written inspection and monitoring plan pursuant to Fla. Admin. Code Ann. r. 62-730.180(1) [40 C.F.R. § 264.1088];
 - (iii) a tracking program (e.g., Management of Change) that ensures that new tanks added to the Facility for any reason are integrated into the CC Tanks Program and that tanks that are taken out of service are removed from the CC Tanks Program;
 - (iv) the roles and responsibilities of all employee and contractor personnel assigned to RCRA subpart CC functions at the Facility;
 - (v) how the number of personnel dedicated to RCRA subpart CC functions is sufficient to satisfy the requirements of the CC Tanks Program; and,
 - (vi) how the Facility plans to implement this CC Tanks Program.
55. Once developed, Respondent shall review the facility-wide CC Tanks Program document described herein annually, and update it as necessary on a yearly basis, but no later than January 31 of each calendar year.

VII. PAYMENT OF CIVIL PENALTY

56. Respondent consents to the payment of a civil penalty in the amount of ELEVEN THOUSAND DOLLARS (\$11,000), which is to be paid within thirty (30) calendar days of the effective date of this CA/FO.
57. Payment(s) shall be made by cashier's check, certified check, by electronic funds transfer (EFT), or by Automated Clearing House (ACH) (also known as REX or remittance express). If paying by check, the check shall be payable to: **Treasurer, United States of America**, and the Facility name and docket number for this matter shall be referenced on the face of the check. If Respondent sends payment by the U.S. Postal Service, the payment shall be addressed to:

United States Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979077
St. Louis, Missouri 63197-9000

If Respondent sends payment by non-U.S. Postal express mail delivery, the payment shall be sent to:

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

If paying by EFT, Respondent shall transfer the payment to:

Federal Reserve Bank of New York
ABA: 021030004
Account Number: 68010727
SWIFT address: FRNYUS33
33 Liberty Street
New York, New York 10045
Field Tag 4200 of the Fedwire message should read: "D
68010727 Environmental Protection Agency"

If paying by ACH, Respondent shall remit payment to:

US Treasury REX / Cashlink ACH Receiver
ABA: 051036706
Account Number: 310006, Environmental Protection Agency
CTX Format Transaction Code 22 – checking
Physical location of US Treasury facility: 5700
Rivertech Court

Riverdale, Maryland 20737
Contact: John Schmid, (202) 874-7026
REX (Remittance Express): 1-866-234-5681

58. Respondent shall submit a copy of the payment to the following individuals:

Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

And to:

Javier E. García
Environmental Engineer
Hazardous Waste Enforcement and Compliance Section
Enforcement and Compliance Branch
RCR Division, US EPA Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8909

59. If Respondent fails to remit the civil penalty as agreed to herein, the EPA is required to assess interest and penalties on debts owed to the United States and a charge to cover the costs of processing and handling the delinquent claim. Interest, at the statutory judgment rate provided for in 31 U.S.C. § 3717, will therefore begin to accrue on the civil penalty if not paid within 30 calendar days after the effective date of this Consent Agreement or, if paying in installments, not paid in accordance with the installment schedule provided above. Pursuant to 31 U.S.C. § 3717, Respondent must pay the following amounts on any amount overdue:
- a. Interest. Any unpaid portion of a civil penalty or stipulated penalty must bear interest at the rate established by the Secretary of the Treasury pursuant to 31 U.S.C. § 3717(a)(1). Interest will therefore begin to accrue on a civil penalty or stipulated penalty if it is not paid by the last date required. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 4 C.F.R. § 102.13(c).
 - b. Monthly Handling Charge. Respondent must pay a late payment handling charge of fifteen dollars (\$15.00) on any late payment, with an additional charge of fifteen dollars (\$15.00) for each subsequent thirty (30) calendar-day period over which an unpaid balance remains.
 - c. Non-Payment Penalty. On any portion of a civil penalty or a stipulated penalty more than ninety (90) calendar days past due, Respondent must pay a non-payment penalty of six percent (6%) per annum, which will accrue from the date the penalty payment became due and is not paid. 31 U.S.C § 3717(e)(2) This non-payment penalty is in addition to charges which accrue or may accrue under subparagraphs (a) and (b).

60. Penalties paid pursuant to this CA/FO are not deductible for federal purposes under 26 U.S.C. § 162(f).

VIII. PARTIES BOUND

61. This CA/FO shall be binding on Respondent and its successors and assigns. Respondent shall cause its officers, directors, employees, agents, and all persons, including independent contractors, contractors, and consultants acting under or for Respondent, to comply with the provisions hereof in connection with any activity subject to this CA/FO.
62. No change in ownership, partnership, corporate or legal status relating to the Facility will in any way alter Respondent's obligations and responsibilities under this CA/FO.
63. The undersigned representative of Respondent hereby certifies that she or he is fully authorized to enter into this CA/FO and to execute and legally bind Respondent to it.

IX. RESERVATION OF RIGHTS

64. Notwithstanding any other provision of this CA/FO, an enforcement action may be brought pursuant to Section 7003 of RCRA, 42 U.S.C. § 6973, or other statutory authority, should the EPA find that the handling, storage, treatment, transportation, or disposal of solid waste or hazardous waste at Respondent's Facility may present an imminent and substantial endangerment to human health or the environment.
65. Complainant reserves the right to take enforcement action against Respondent for any future violations of RCRA and the implementing regulations and to enforce the terms and conditions of this CA/FO.
66. Except as expressly provided herein, nothing in this CA/FO shall constitute or be construed as a release from any civil or criminal claim, cause of action, or demand in law or equity for any liability Respondent may have arising out of, or relating in any way to, the storage, transportation, release, or disposal of any hazardous constituents, hazardous substances, hazardous wastes, pollutants, or contaminants found at, taken to, or taken from Respondent's Facility.

X. OTHER APPLICABLE LAWS

67. All actions required to be taken pursuant to this CA/FO shall be undertaken in accordance with the requirements of all applicable local, state, and Federal laws and regulations. Respondent shall obtain or cause its representatives to obtain all permits and approvals necessary under such laws and regulations.

XI. SERVICE OF DOCUMENTS

68. A copy of any documents that Respondent files in this action shall be sent to the following attorney who represents the EPA in this matter and who is authorized to receive service for the EPA in this proceeding:

Roberto X. Busó
Associate Regional Counsel
Office of RCRA/CERCLA Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-8530

69. A copy of any documents that Complainant files in this action shall be sent to the following individual who represents Respondent in this matter and who is authorized to receive service for Respondent in this proceeding:

Clean Harbors Florida, LLC
42 Longwater Drive
Norwell, Massachusetts 02061
Attn: Michael R. McDonald –
Assistant Secretary

XII. SEVERABILITY

70. It is the intent of the parties that the provisions of this CA/FO are severable. If any provision or authority of this CA/FO or the application of this CA/FO to any party or circumstances is held by any judicial or administrative authority to be invalid or unenforceable, the application of such provisions to other parties or circumstances and the remainder of the CA/FO shall remain in force and shall not be affected thereby.

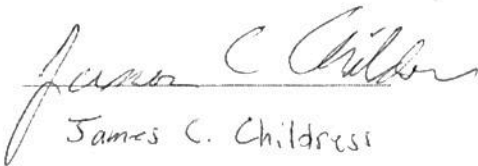
XIII. EFFECTIVE DATE

71. The effective date of this CA/FO shall be the date on which the CA/FO is filed with the Regional Hearing Clerk.

In the matter of Clean Harbors Florida LLC, Docket No. RCRA-04-2018-4012(b):


AGREED AND CONSENTED TO:

Clean Harbors Florida LLC

By: 
James C. Childress

Dated: 07/25/2018

United States Environmental Protection Agency

By: 
for Larry L. Lamberth, Chief
Enforcement and Compliance Branch
Resource Conservation and Restoration
Division
U.S. EPA Region 4

Dated: 07/31/18

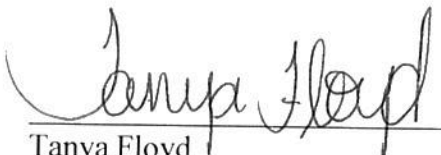
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 4**

IN THE MATTER OF:)	DOCKET NO.: RCRA-04-2018-4012(b)
)	
Clean Harbors Florida LLC)	
7001 Kilo Avenue)	
Bartow, Florida 33830)	Proceeding Under Section 3008(a) of the
EPA ID No.: FLD 980 729 610)	Resource Conservation and Recovery Act,
)	42 U.S.C. § 6928(a)
Respondent)	
_____)	

FINAL ORDER

The foregoing Consent Agreement is hereby approved, ratified and incorporated by reference into this Final Order in accordance with the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, 40 C.F.R. Part 22. The Respondent is hereby ORDERED to comply with all of the terms of the foregoing Consent Agreement effective immediately upon filing of this Consent Agreement and Final Order with the Regional Hearing Clerk. This Order disposes of this matter pursuant to 40 C.F.R. §§ 22.18 and 22.31.

BEING AGREED, IT IS SO ORDERED this 7th day of August, 2018.

BY: 
Tanya Floyd
Regional Judicial Officer
EPA Region 4



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 4
ATLANTA FEDERAL CENTER
61 FORSYTH STREET
ATLANTA, GEORGIA 30303-8960

AUG 07 2018

CERTIFIED MAIL – RETURN RECEIPT

Mr. John Bosek
Facility Manager
Clean Harbors Florida LLC
170 Bartow Municipal Airport
Bartow, Florida 33830

SUBJ: Clean Harbors Florida LLC
EPA ID No.: FLD 980 729 610
Consent Agreement and Final Orders
Docket No.: RCRA-04-2018-4012(b)

Dear Mr. Bosek:

Enclosed please find a copy of the executed Consent Agreement and Final Order (CA/FO) as filed with the Regional Hearing Clerk in the above-referenced matter. Please note that payment of the civil penalty is due within thirty (30) days of the effective date of the CA/FO, which is the date the CA/FO is filed with the Regional Hearing Clerk. A copy of the check, wire transfer or online payment should be submitted to the following people:

Patricia Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960


and to:

Javier García, Environmental Engineer
Hazardous Waste Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

Also enclosed is a copy of a document titled "Notice of Securities and Exchange Commission Registrants' Duty to Disclose Environmental Legal Proceedings." This document puts the current owner on notice of their potential duties to disclose to the Securities and Exchange Commission any environmental actions taken by the EPA.

Thank you for your assistance in resolving this matter. If you have any questions, please feel free to contact me at (404) 562-8616 or by email at garcia.javier@epa.gov.

Sincerely,


for Larry L. Lamberth
Chief, Enforcement and Compliance Branch
Resource Conservation and Restoration Division

Enclosure

NOTICE OF SECURITIES AND EXCHANGE COMMISSION REGISTRANTS' DUTY TO DISCLOSE ENVIRONMENTAL LEGAL PROCEEDINGS

Securities and Exchange Commission regulations require companies registered with the SEC (e.g., publicly traded companies) to disclose, on at least a quarterly basis, the existence of certain administrative or judicial proceedings taken against them arising under Federal, State or local provisions that have the primary purpose of protecting the environment. Instruction 5 to Item 103 of the SEC's Regulation S-K (17 CFR 229.103) requires disclosure of these environmental legal proceedings. For those SEC registrants that use the SEC's "small business issuer" reporting system, Instructions 1-4 to Item 103 of the SEC's Regulation S-B (17 CFR 228.103) requires disclosure of these environmental legal proceedings.

If you are an SEC registrant, you have a duty to disclose the existence of pending or known to be contemplated environmental legal proceedings that meet any of the following criteria (17 CFR 229.103(5)(A)-(C)):

- A. Such proceeding is material to the business or financial condition of the registrant;
- B. Such proceeding involves primarily a claim for damages, or involves potential monetary sanctions, capital expenditures, deferred charges or charges to income and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis; or
- C. A governmental authority is a party to such proceeding and such proceeding involves potential monetary sanctions, unless the registrant reasonably believes that such proceeding will result in no monetary sanctions, or in monetary sanctions, exclusive of interest and costs, of less than \$100,000; provided, however, that such proceedings which are similar in nature may be grouped and described generically.

Specific information regarding the environmental legal proceedings that must be disclosed is set forth in Item 103 of Regulation S-K or, for registrants using the "small business issuer" reporting system, Item 103(a)-(b) of Regulation S-B. If disclosure is required, it must briefly describe the proceeding, "including the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceedings and the relief sought."

You have been identified as a party to an environmental legal proceeding to which the United States government is, or was, a party. If you are an SEC registrant, this environmental legal proceeding may trigger, or may already have triggered, the disclosure obligation under the SEC regulations described above.

This notice is being provided to inform you of SEC registrants' duty to disclose any relevant environmental legal proceedings to the SEC. This notice does not create, modify or interpret any existing legal obligations, it is not intended to be an exhaustive description of the legally applicable requirements and it is not a substitute for regulations published in the Code of Federal Regulations. This notice has been issued to you for information purposes only. No determination of the applicability of this reporting requirement to your company has been made by any governmental entity. You should seek competent counsel in determining the applicability of these and other SEC requirements to the

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed the original and a true and correct copy of the foregoing Consent Agreement and the attached Final Order (CA/FO), in the Matter of Clean Harbors Florida LLC, Docket Number: RCRA-04-2018-4012(b), and have served the parties listed below in the manner indicated:

Roberto X. Buso
Associate Regional Counsel
Office of RCRA, OPA and UST Legal Support
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

(Via EPA's electronic mail)

Quantindra Smith
Enforcement and Compliance Branch
RCR Division
U.S. Environmental Protection Agency, Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960

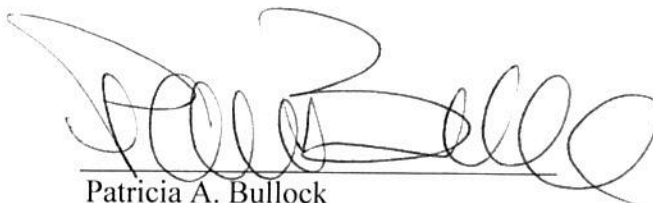
(Via EPA's electronic mail)

Clean Harbors Florida, LLC
42 Longwater Drive
Norwell, Massachusetts 02061
Attn: Michael R. McDonald
Assistant Secretary

(Via Certified Mail - Return Receipt
Requested)

Date:

8-7-18



Patricia A. Bullock
Regional Hearing Clerk
U.S. Environmental Protection Agency



Clean Harbors Florida, LLC.
7001 Kilo Avenue
Bartow, Florida 33830
863.533.6111
www.cleanharbors.com

August 16, 2018

Sent via Fed Ex

U.S. Bank
Government Lockbox 979077
U.S. EPA Fines & Penalties
1005 Convention Plaza
SL-MO-C2-GL
St. Louis, Missouri 63101
(314) 425-1818

**Re: Payment for Civil Penalty
Clean Harbors Florida LLC
EPA I.D. Number: FLD 980 729 610
Consent Agreement and Final Orders
Docket No.: RCRA-04-2018-4012(b)**

To the administrator for the above referenced matter:

Pursuant to Section VII. PAYMENT OF CIVIL PENALTY, Conditions 56. and 57. of the referenced Consent Agreement and Final Orders, enclosed please find cashier's check #1019353465 payable to Treasurer United States of America in the amount of \$11,000. Please contact me at (863) 519-6331 or bosek.john@cleanharbors.com with any questions or comments concerning this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "John Bosek".

John Bosek
Facility General Manager

Enclosure

cc: Patricia Bullock
Regional Hearing Clerk
U.S. EPA - Region 4
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-9511

"People and Technology Creating a Better Environment"



ENVIRONMENTAL SERVICES®

Clean Harbors Florida, LLC.

7001 Kilo Avenue

Bartow, Florida 33830

863.533.6111

www.cleanharbors.com

Javier Garcia, Environmental Engineer
Hazardous Waste Section
Enforcement and Compliance Branch
Resource Conservation and Restoration Division
61 Forsyth Street, S.W.
Atlanta, Georgia 30303-8960
(404) 562-8616

James Childress, Clean Harbors Environmental Services, Inc.
Timmerly Fitzpatrick, ESQ, Clean Harbors Environmental Services, Inc.

"People and Technology Creating a Better Environment"

Bank of America, N.A.
San Antonio, Texas
Deposit Services
318-0005594 KA

VOID after 90 days

30-1/1140

ANTI-FRAUD PROTECTION - PATENTS 5,111

DATE

08/01/18

05:12:28 PM

PAY ONLY **11000** 00 CTCTS

*****\$11,000.00**

PAY Eleven thousand dollars and zero cents

To The Treasurer United States of America
Order Of 100C

SR1-15196012764

VOID Over *****\$11,000.00

Remitter: Clean Harbors Environmental Services Inc
Clean Harbors Florida LLC; Docket # RCRA-04-2019-4012 (b)


AUTHORIZED SIGNATURE

⑈ 1019353465⑈ ⑆ 114000019⑆ 001641000744⑈

☒ THE ORIGINAL DOCUMENT HAS A REFLECTIVE WATERMARK ON THE BACK. ☒ HOLD AT AN ANGLE TO VIEW WHEN CHECKING THE ENDORSEMENTS.

008490975